Remarks:

Applicant has carefully studied the final Examiner's Action mailed 04/11/2006, having a shortened statutory period for response set to expire 07/11/2006, and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by unnumbered paragraphs that correspond to the unnumbered paragraphs employed by the Office, to ensure full response on the merits to each finding of the Office.

Applicant acknowledges the quotation of 35 U.S.C. § 103(a).

Claims 1-3 and 6-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hall in view of McGarvey and Keehan. Reconsideration and withdrawal of this ground of rejection is requested.

(In the previous Office action, the cited references were Sanai, McGarvey, and Silverman. Applicant's Amendment D overcame the rejections based upon that aggregation of references. The Office now relies upon Hall, McGarvey and Keehan).

Applicant's construction, taken from the inside to the outside, includes: 1) an inner enclosure formed of a metal; 2) an insulating foam; 3) a fire-resistant textile material; and 4) and an outer enclosure formed of a metal.

In contrast, the Hall structure, from the inside to the outside, includes: 1) inner tank 12 made of steel; 2) "liquid-absorbing layer 70, formed preferably of a polypropylene cellular sheet material which is commercially available and which absorbs any liquid which might leak out of tank 12" (col. 7, lines 49-52); 3) a sealed polyurethane container, or bag 74...which is impervious to most flammable liquids: (col. 8, lines 1-4), "The polyurethane bag 74 thus provides a secondary containment for any fluids that might leak out of tank 12." (col. 8, lines 11-13); 4) "a cellular concrete commercially available under the name Elastizell, or other lightweight insulating material is poured in fluid form into the space between the inner tank assembly and the outer shell 20" (col. 8, lines 40-44); and 5) outer shell 20 formed of 10 gauge steel (col. 4, line 34).

Thus it is clear that Hall's structure includes five (5) parts, not the four (4) parts recited by the Office. The Hall structure is best understood as a first steel container disposed inside a

second steel container with a relatively lightweight concrete poured into the space between said containers. This makes three (3) parts, it being understood that the other two (2) parts are leak-proof bags that encase the inner container. Obviously, the leak-proof bags perform no function during an explosion or a fire; they merely prevent leakage during normal above-ground storage of flammable fuels.

As Hall recites in col. 3, lines 43-57:

> The use of a lightweight insulating material greatly reduces the expense of transporting the tank vault of the invention, making it economical to completely assemble the device at the manufacturing location. The lightweight encasing material reduces the need for reinforcement of the inner tank or outer shell, thereby further reducing the overall weight of the device. Further, the provision of an outer shell, for example of steel, insures structural integrity of the vault not only during transportation, but during exposure to adverse environmental conditions. The integrity of the insulating material is maintained over a longer period of time and exposure to fire conditions does not cause destruction of the insulating layer when attempts are made to put out the fire. In addition, the outer shell provides another barrier to leakage of hazardous materials.

Thus it is understood that Hall's contribution to the art resides primarily in the use of a relatively lightweight concrete material between two steel containers. Therefore, any modification of Hall that removes such relatively lightweight concrete (or other lightweight insulator material) from the Hall construction would not have been obvious to those of ordinary skill in this art. In fairness to Applicant, it cannot have been obvious to modify Hall by deleting the central teaching of Hall.

The Office's assertion that "Hall discloses the invention except for the insulating foam material." is unsupportable. Applicant's invention includes no concrete whatsoever, whether heavy-in-weight or light-in-weight as taught by Hall. Applicant's invention rejects the teaching of Hall and incorporates no concrete of any kind. In fairness to Applicant, no concrete-reliant structure as taught by Hall would have suggested Applicant's devoid-of-concrete structure.

The Office further argues that it would have been obvious to add the insulating foam material of McGarvey to the Hall structure and to thereby arrive at an invention having Applicant's structure. Obviously, even if McGarvey's insulating foam material is added to Hall, the concrete remains in Hall. Thus, a Hall/McGarvey aggregation, using Applicant's invention as

a guidebook, as if Applicant's invention preceded itself, still fails to replicate, teach, or suggest Applicant's claimed structure.

Hall teaches away from the invention. An aggregation of earlier patents that includes Hall would lead one of ordinary skill away from the claimed invention, not toward it.

McGarvey discloses an inner tank 11 made of steel and an outer tank 12 made of steel. However, the space between the inner and outer tanks is filled with "thermal barrier material 117" which include "foamed concrete, VERMICULITE, styrofoam, urethane foam, pumice, FENDOLITE, and the like" (col. 3, lines 55-57). FENDOLITE is identified as including a mixture of VERMICULITE and portland cement. (col. 3, lines 60-62). A fire-resistant material 250a is sprayed on the exterior of outer tank 12. A fire-resistant material 250a is sprayed onto the external surface of outer tank 12. Thus, in identifying the materials of which the McGarvey structure is formed, beginning from the inside and working outwardly, we have: 1) steel inner container 11; 2) thermal barrier material 117 in the form of foamed concrete or other foams; 3) steel outer container 12; and 4) a layer 250a of a fire-resistant material. This is in sharp contrast to Applicant's: 1) inner enclosure formed of a metal; 2) an insulating foam; 3) a fire-resistant textile material; and 4) and an outer enclosure formed of a metal. Only Applicant teaches a foam and a fire-resistant material sandwiched between two steel tanks. McGarvey clearly teaches away from Applicant's contribution. An outward-bound particle impelled by an explosion in Applicant's container will encounter, in sequence, a first steel wall, a foam, a fire-retardant, and a second steel wall. An outward-bound particle impelled by an explosion in McGarvey's container will encounter, in sequence, a first steel wall, a foam, a second steel wall, and a fire-retardant.

Nor would Keehan have impelled one of ordinary skill to delete the concrete from the Hall structure. Keehan discloses an inner foam layer 92 and an outer fire resistant layer 94, both of which are disposed in an interstitial space defined by inner layer 88 and outer layer 98, as the Office points out. Still, nothing in Keehan suggests that the Hall concrete should be discarded so that a structure more like Applicant's could be produced.

In fairness to Applicant, the Office should acknowledge that which is obvious: Applicant's invention did not arise from any obvious combination of the respective, contradictory teachings of Hall, McGarvey, and Keehan.

Claims 2 and 3, although they are dependent claims, are cancelled due to the common use of hot-rolled steel in tank construction as pointed out by the Office. Claim 14 is cancelled because it is just a method of use claim and claim 15 is cancelled because the top surface of Hall's tank could be used to support a generator as the office notes. The remaining dependent claims are entitled to allowance upon allowance of claim 1, as currently amended.

A Notice of Allowance is solicited. If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (813) 925-8505 is requested. Applicant thanks the Office for its careful examination of this important patent application.

Very respectfully,

SMITH & HOPEN

By:_____

Dated: July 11, 2006

Anton J. Hopen
Reg. No. 41,849
180 Pine Avenue North
Oldsmar, FL 34677
(813) 925-8505
Attorneys for Applicant

pc: Mr. Marshall R. Moore

CERTIFICATE OF FACSIMILE TRANSMISSION
(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment E, including Introductory Comments, Amendments to the Claims, Remarks, and a Request For Continued Examination is being transmitted by facsimile to the United States Patent and Trademark Office, Central Fax, Attn: Mr. Stephen J. Castellano, (571) 273-8300 on July 11, 2006.

Dated: July 11, 2006

April Turley

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